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22. Sep. 2005

AR-EP
Frist 15.01.06
16.03.06
06.10.05



Application No. 03 754 966.4 - 2412	Ref. P18368 GC/sta	Date 19.09.2005
Applicant Sony Ericsson Mobile Communications AB		

Communication pursuant to Article 96(2) EPC

The examination of the above-identified application has revealed that it does not meet the requirements of the European Patent Convention for the reasons enclosed herewith. If the deficiencies indicated are not rectified the application may be refused pursuant to Article 97(1) EPC.

You are invited to file your observations and insofar as the deficiencies are such as to be rectifiable, to correct the indicated deficiencies within a period

of 4 months

from the notification of this communication, this period being computed in accordance with Rules 78(2) and 83(2) and (4) EPC.

One set of amendments to the description, claims and drawings is to be filed within the said period on separate sheets (Rule 36(1) EPC).

Failure to comply with this invitation in due time will result in the application being deemed to be withdrawn (Article 96(3) EPC).



Harrysson, A
Primary Examiner
for the Examining Division

Enclosure(s): 4 page/s reasons (Form 2906)



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The examination is being carried out on the **following application documents**:

Description, Pages

1-14 as published

Claims, Numbers

1-30 received on 17.06.2005 with letter of 16.06.2005

Drawings, Sheets

1/5-5/5 as published

- 1) The following documents from the international search report are referred to in this communication:
D1: US-A-5517677
D2: EP-A-0605989
D3: GB-A-2333424
D4: CA-A-2325077
- 2) With respect to **claim 1**, document **D1** (see in particular abstract; column 14 at lines 48 to column 15 at line 30) discloses (any references in parentheses applying to this document) a method of selecting a selecting a communication system, comprising the steps of:
 - a) receiving at least a quality indicator for a channel (see in particular column 14 at lines 54-57);
 - b) scanning any channels on a channel scan list in response to at least the quality indicator of the channel being below a predetermined threshold value (see in particular column 14 at lines 62-66);
 - c) acquiring another channel from the channel scan list in response to the other

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channel having at least the quality indicator greater than or equal to the predetermined threshold value (see in particular column 15 at lines 15-22).

The document **D1** thus discloses **all** features of **claim 1** and the subject-matter of said claim is therefore **not novel** (Article 54(1) and (2) EPC), and hence not allowable.

The same novelty objection apply with regard to cited document **D2**; for feature a), see column 6 at lines 5-10, feature b), see column 6 at lines 10-15, feature c), see column 6 at lines 15-18.

Furthermore, it is pointed out that should the applicant dispute the aforementioned novelty objection based on minor differences of interpretation between some of the features of **claim 1** and the features of **D1 or D2**, the subject-matter of said claim would **not involve an inventive step** (Article 56 EPC), with regard to the disclosure of document **D1 or D2** and the normal knowledge of a **person skilled in the art** of mobile telephone networks. In this respect it should be noted that document **D3** (see in particular abstract; page 13 at line 30 - page 14 at line 14) discloses a similar method wherein a base station is selected when the signal quality goes below a threshold.

- 3) The above novelty and inventive step objection regarding claim 1 applies also to independent **claims 19 and 26**, which define a communication device and a computer readable medium having computer-executable instructions, respectively, corresponding to the method as defined in independent claim 1. With respect to claim 1, **claim 19 omits** acquiring another channel, making claim 19 even broader than claim 1. As a consequence the subject-matter of **claims 19 and 26** is also **not novel** (Article 54(1) and (2) EPC) **or at least not inventive** (Article 56 EPC).
- 4) In **claim 6** "the channel" has **no unambiguous antecedent**. It is not evident which particular channel is referred to and said claim is thus **unclear** under Article 84 EPC.

In **claim 16** "the current channel" has **no unambiguous antecedent**. Said claim is thus **unclear** under Article 84 EPC.

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In **claim 18** "the other communication system" has **no antecedent** and is thus not thus not clear under Article 84 EPC.

- 5) The **dependent claims 2-18,20-25, 27-30**, as far as they are understood with respect to the clarity objections above, do **not** contain any additional features which, in combination with the features of any claim to which they refer, **involve an inventive step** (Article 56 EPC) for the reason that the subject-matter of said claims **either** is in principle directly derivable from the disclosure of document **D1** (see in particular abstract; column 14 at lines 48 to column 15 at line 30), **D2** (see in particular abstract; column 5 at line 57 - column 6 at line 58), **D3** (see in particular abstract; page 13 at line 30 - page 14 at line 14), or from document **D4** (see in particular abstract; page 5 at lines 10-14; page 14 at lines 14-20) **or** represents minor design details which are based on the normal knowledge of a person skilled in the art of mobile telephone networks.

Thus, the dependent **claims 2-18,20-25, 27-30** do not fulfil the requirements of Article 56 EPC.

- 6) If new claims are filed to overcome the objections set out above, the applicant should also take the opportunity to attend to the following points.
- a) The **independent claims** are not in **two-part form** in accordance with Rule 29(1) EPC, which in the present case would be appropriate, with those features known in combination from the pre-published prior art D1 being placed in the preamble and with the remaining features being included in the characterising part. The independent claims should therefore be redrafted.

If the applicant considers two-part form inappropriate in accordance with EPO Guidelines C-III-2.3, he is invited to provide reasons in his reply and also ensure that it is clear from the **description** which features defined by the independent claim are already known in combination from the prior art, EPO Guidelines C-III-2.3b.

- b) In order to meet the requirements of Rule 27(1)(b) EPC, the **relevant prior art**

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disclosed in documents D1 and D2 should be acknowledged by reference and briefly discussed in the introductory part of the **description**.

- c) If any **amended independent claims** are filed, the opening part of the **description**, including the summary of the invention, should be brought into agreement with the wording thereof, Rule 27(1)(c) EPC.
- d) Also, the **application may not be amended** in such a way that it contains subject-matter which extends **beyond** the content of the application **as filed**, Article 123(2) EPC.

The applicant is requested **to clearly identify the amendments carried out**, irrespective of whether they concern amendments by addition, replacement or deletion, **and to indicate the passages** of the application as filed on which these amendments are based (EPO Guidelines E-II-1). If the applicant regards it as appropriate these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.

- e) Finally, amendments should be filed by way of replacement pages.